



Pillsbury
Winthrop
Shaw
Pittman LLP

2300 N Street, N.W.
Washington, D.C. 20037-1128

Tel 202.663.8000
Fax 202.663.8007
www.pillsburylaw.com

November 29, 2005

Veronica D. McLaughlin Tippet
202.663.8491
veronica.tippet@pillsburylaw.com

Via Electronic Filing

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street
Room TW-A325
Washington, DC 20554

**Re: TELEVISION STATION SECTION 339(a)(2)(D)(viii)
WAIVER REQUEST
WACY-DT, Appleton, WI (FIN #361)**

Dear Ms. Dortch:

Ace TV Inc. ("Ace"), permittee of WACY-DT, Appleton, Wisconsin, pursuant to Section 339(a)(2)(D)(viii) of the Communications Act of 1934, as amended,^{1/} and MB Docket No. 05-317, hereby requests a waiver of digital signal testing to prohibit satellite subscribers from receiving or conducting a digital signal strength test of WACY-DT's signal. Good cause exists for grant of this request because Ace meets one of the statutory criteria for such grant. Specifically, WACY-DT's digital signal coverage is limited due to the need for international coordination. *See* 47 U.S.C. § 339 (a)(2)(D)(viii)(I).

Ace was originally allotted channel 59, a transitional channel outside the core spectrum, for its digital operations. Therefore, Ace sought the substitution of DTV channel 27c for DTV channel 59 as WACY-DT's channel. *See* Amendment of Section 73.622(b), Table of Allotments, Digital Television Broadcast Stations (Appleton, Wisconsin), Report & Order, MB Docket No. 04-185, RM-10860, released Jan. 28, 2005. While Ace filed its proposal in February 2002, grant of the proposal was delayed due to the need for Canadian concurrence. Thus, the channel change was not granted

^{1/} 47 U.S.C. § 339(a)(2)(D)(viii) *as amended* by Section 204 of the Satellite Home Viewer Extension and Reauthorization Act of 2004.

Ms. Marlene H. Dortch
November 29, 2005
Page 2

until approximately three years later in January 2005. During the pendency of the requested change, Ace constructed a temporary, low power facility on channel 59 and obtained Special Temporary Authority (an "STA") to operate WACY-DT with those facilities while it sought an in-core channel. *See* FCC File No. BDSTA-20020301AGM, as most recently extended by BEDSTA-20050614ADU.

Upon grant of the channel change, Ace filed its application for minor modification of the WACY-DT construction permit in order to implement the change. *See* FCC File No. BMPCDT-20050428AAZ. Once again, Ace's counsel has been informed by FCC staff that the application cannot yet be granted because it is awaiting Canadian clearance. Thus, Ace has been unable to construct the WACY-DT full power facilities.

Accordingly, as Ace meets the statutory criteria for waiver, the permittee hereby requests a waiver of digital signal testing to prohibit satellite subscribers from receiving or conducting a digital signal strength test of WACY-DT's signal in order to import a distant digital signal.

Should there be any questions regarding this matter, please contact the undersigned.

Respectfully submitted,

A handwritten signature in black ink, reading "Veronica D. McLaughlin Tippet". The signature is written in a cursive, flowing style.

Veronica D. McLaughlin Tippet

cc: Nazifa Sawez (FCC)
539709-0000000